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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 493 OF 1988

Chandra Bhushan Agarwal ... Petitioner

V/s

M/s. Scooters India Ltd. ... Respondent

Mr. A.V. Burkhari for the petitioner.

Mr. S.P. Bharti for the respondent.

CORAM: R.M. LODHA &
SMT. NISHITA MHATRE, JJ.

DATED: 9TH JANUARY, 2007.

P.C.:

This writ petition is of the year 1988 and has come up for hearing after 18 years. The petitioner challenges the order dated 25.6.1987 whereby he was intimated that having failed to report for duty at Company head-quarters at Lucknow, the Company concluded that the petitioner was no more interested in the employment of the Company and has voluntarily left the services of the Company on his own accord. According to the petitioner, this communication amounts to termination which is illegal for more than one reason.

2. Having seen the facts of the case and more particularly the fact that by the order dated 22.8.1986, the petitioner was transferred from Mumbai office to Lucknow head-quarters and the petitioner did not report for duty at the transferred place and continued to request for cancellation of transfer order and later on remained on leave on the purported ground of illness, prima facie it seems to us that even if, after hearing the petition, it is held that the order dated 25.6.1987 suffers from an illegality, the petitioner may not be entitled to any back wages. We accordingly asked the counsel for the petitioner as to whether the petitioner at this distance of time is willing to join the service of the respondent. The counsel submitted that he would have to seek instructions in this regard from the petitioner.

3. We also wanted to know from the counsel for the respondent as to whether the respondent is willing to reinstate the petitioner without back wages. The counsel for the respondent also want time to seek instructions in this regard.

4. In the circumstances, we adjourn the writ petition to 16.1.2007.

5. We clarify that our observations are only tentative and if the matter is heard on merits, these observations shall have no bearing. We also clarify that, in the meanwhile, the parties may also explore the possibility of mutual settlement.

(R.M. LODHA, J.)

(SMT. NISHITA MHATRE, J.)